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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/486,540	02/29/2000	DIETMAR PRZYTULLA	2511-089	14/ 8719

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PENNIE & EDMONDS
1667 K STREET NW
WASHINGTON, DC 20006

EXAMINER

NOLAN, SANDRA M

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 05/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/486,540

Applicant(s)

PRZYTULLA ET AL.

Examiner

Sandra M. Nolan

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims

1. Claims 17-42 are pending.

Rejection Withdrawn in Part

2. The 35 USC 112 rejection of claims 26-33, 38 and 39, as set forth in section 6 of the office action dated 15 October 2002 (Paper No. 11), is withdrawn with respect to the use of the phrase "two thicker wall regions. . . wall region" (claim 20, lines 2 and 3) in view of applicants' arguments on page 2 of the 28 February 2003 request for reconsideration (Paper No. 13).

Rejection Maintained in Part

3. The 35 USC 112 rejection of claims 26-33, 38 and 39, as recited in section 6 of Paper No. 11, is maintained with respect to the phrases "central portions . . . each provided" (claim 26, lines 6-7) and "an outer surface . . . on the inner surface" (claims 29, 32 and 33) for reasons of record.

Rejections Withdrawn

4. The 35 USC 103 rejection of claims 17-42 as obvious over Stenger (US 5,217,128) in view of Snyder (US 4,257,527) and Gilblin (US 6,223,945), stated in section 8 of Paper No. 11 is withdrawn in view of applicants' arguments in Paper No. 13 and in order to apply the new grounds of rejection below.

N w Rejections

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 17-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pfeiffer et al (US 4,880,138) in view of Dunken et al (US 5,232,120).

Pfeiffer teaches blow-molded thermoplastic (col. 4, line 8) drums used with covers and clamping rings (abstract). The drums have circular tops and bottoms (Figure 5). Pfeiffer fails to teach vertical ribs in its drums.

Dunken teaches the use of a plurality of vertical ribs (Figure 1) in lateral walls (col. 7, lines 55-56) of plastic (col. 4, line 6) cylindrical drums (col. 1, line 13 and Figure 1). The ribs are "reinforcing ribs" (col. 7, lines 56-57).

The references are analogous because they both deal with plastic drums.

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It would have been obvious to one having ordinary skill in the art at the time that the invention was made to employ the ribs of Dunken in the drums of Pfeiffer in order to reinforce them.

The motivation to employ the ribs of Dunken in the drums of Pfeiffer is found at col. 7, lines 56-57 of Dunken, where the reinforcing nature of its ribs is taught.

It is deemed desirable to make reinforced drums in order to strengthen them for handling/transportation.

In the absence of convincing objective evidence to the contrary, the use of ribs whose thickness is greater than the wall sections between them would be an obvious means of providing greater reinforcement, since thicker ribs would be less likely to deform under stress.

8. Claims 126-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watson (US 5,544,777) in view of Dunken.

Watson teaches plastic containers made by blow molding (col. 2, lines 47-48) that have rectangular sidewalls, so that two sets of walls are parallel to each other (Figure 10). There are holes (26, 28) near sidewalls (col. 2, lines 48-50; Figure 1). Watson fails to teach vertical ribs.

Dunken is discussed above.

The patents are analogous because both deal with plastic containers.

It would have been obvious to one having ordinary skill in the art at the time that the invention was made to employ the ribs of Dunken in the containers of Watson in order to reinforce them.

The motivation to employ the ribs of Dunken in the containers of Watson is found at col. 7, lines 56-57 of Dunken, where the reinforcing nature of its ribs is taught.

It is deemed desirable to make reinforced containers in order to strengthen them for handling/transportation.

In the absence of convincing objective evidence to the contrary, the use of ribs whose thickness is greater than the wall sections between them would be an obvious means of providing greater reinforcement, since thicker ribs would be less likely to deform under stress.

Response to Arguments

9. Applicants' arguments filed in Paper No. 13 have been fully considered but they are not persuasive. They will be responded to in the order in which they were recited.

On page 2, applicants argue that "central portions of the first and second pairs of sidewalls each having an inner surface provided" is supported by Figures 8 and 9; the specification at page 8, line 31 and original claim 16.

However, none of these supports the language "central portions". The fact that a feature is not in a corner does not mean that it is in a central portion.

Also on page 2, applicants argue that "an outer surface that is smooth at least in those regions opposite the vertically oriented ribs provided on the inner surface" [emphasis added] is supported by Figure 15; page 9, lines 11-13 of the specification and original claim 7.

However, none of these supports the language in quotes because they all show or refer to a *uniformly* smooth outer surface. The outer surface cannot have "uniform

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smoothness" and be smooth "at least in those regions opposite the internal ribs" at the same time. In other words, uniform smoothness means that the surface is entirely smooth; smoothness in certain regions [i.e., at least in those regions opposite the ribs] means that the outer surface need not be entirely smooth.

Applicants' arguments with respect to the prior art rejections have been considered but are moot in view of the new grounds of rejection above.

Conclusion

Any inquiry concerning this communication should be directed to Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/305-5436. The fax number for after final communications is 703/872-9310. The receptionist answers 703/308-0661.



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SMN/smn
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